



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

CHARLES E. WASHINGTON,
Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security
Administration,
Defendant.

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Civil Action No. 1:03-CV-295

MEMORANDUM ORDER ADOPTING
THE MAGISTRATE’S REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the Eastern District of Texas, the Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, for consideration. Pending before the Court is Plaintiff’s *Complaint* requesting review of the Defendant Commissioner’s denial of Social Security benefits [Clerk’s doc. #1]. The Magistrate Judge issued his *Report and Recommendation* recommending that the Court overrule Plaintiff’s points of error and affirm the Defendant Commissioner’s decision [Clerk’s doc. #38].

Plaintiff filed his *Objections to the Report and Recommendation of the Magistrate Judge* [Clerk’s doc. #42]. He generally argues that the Commissioner’s decision to deny Plaintiff benefits

was in error because he is disabled under Listing 12.04 for Depression and the ALJ's decision is not supported by substantial evidence. Plaintiff also contends that Judge Giblin's findings ignore the plain language of Dr. Coxe, one of Mr. Washington's treating physicians, and that his recommendation supports the lawless conduct of the ALJ in this regard. *See Objections*, at p.4.

The Court has received and considered the *Report and Recommendation* of the United States Magistrate Judge along with the record, pleadings and all available evidence. Accordingly, as required by 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72, the undersigned conducted a *de novo* review of the proposed findings, conclusions and recommendation of the Magistrate.

The Court concludes that the findings of fact and conclusions of law of the Magistrate Judge are correct. It is therefore **ORDERED** that the *Report and Recommendation of the United States Magistrate Judge* [Clerk's doc. #38] is **ADOPTED**; Plaintiff's *Objections* [Clerk's doc. #42] are **OVERRULED**; and the Commissioner's decision denying Plaintiff Social Security benefits is **AFFIRMED**. Final Judgment in this matter will be entered separately.

So **ORDERED** and **SIGNED** this 28 day of **June, 2005**.



Ron Clark, United States District Judge